

1 Donald J. Kula (Bar No. 144342)  
dkula@perkinscoie.com  
2 PERKINS COIE LLP  
1888 Century Park E #1700  
3 Los Angeles, California 90067  
Telephone: (310) 788-9900  
4 Facsimile: (310) 788-3399

5 James G. Snell (Bar No. 173070)  
jsnell@perkinscoie.com  
6 Joshua A. Reiten (Bar No. 238985)  
JReiten@perkinscoie.com  
7 PERKINS COIE LLP  
505 Howard Street, Suite 1000  
8 San Francisco, California 94105  
Telephone: (415) 344-7000  
9 Facsimile: (415) 344-7050

10 Debra R. Bernard, *pro hac vice*  
dbernard@perkinscoie.com  
11 PERKINS COIE LLP  
1315 Dearborn Street Suite 1700  
12 Chicago, IL 60603-5559  
Telephone: (312) 324-8559  
13 Facsimile: (312) 324-9559

14 Attorneys for Defendant  
15 Uber Technologies, Inc.

16 UNITED STATES DISTRICT COURT  
17 CENTRAL DISTRICT OF CALIFORNIA

18  
19 ASFIKE KOLLOUKIAN,  
20 Plaintiff,  
21 v.  
22 UBER TECHNOLOGIES, INC.,  
23 Defendant.

Case No. CV 15-2856-PSG-JEM

**DEFENDANT'S REPLY IN  
SUPPORT OF MOTION TO STAY  
PROCEEDINGS PENDING  
APPEAL OF THE FCC'S OMNIBUS  
ORDER TO THE UNITED STATES  
COURT OF APPEALS FOR THE  
DISTRICT OF COLUMBIA AND  
SPOKEO V. ROBINS**

24 Date: December 21, 2015  
25 Time: 1:30 p.m.  
Courtroom: 880  
26 Judge: Hon. Philip S. Gutierrez

1        Since Uber filed its Motion to Stay these proceedings, the justifications for a  
 2 stay have only been amplified.

3        *First*, a number of additional courts have agreed—many after Uber filed its  
 4 stay motion—that a stay is warranted during the pendency of the D.C. Circuit’s  
 5 review of the FCC’s Omnibus Order and the Supreme Court’s review of whether a  
 6 plaintiff that suffers no concrete harm has standing in federal court (*Spokeo v.*  
 7 *Robins*). *See, e.g.*, *Gensel v. Performant Techs.*, No. 13-C-1196, 2015 WL  
 8 6158072 (E.D. Wisc. Oct. 20, 2015) (continuing stay of TCPA litigation pending  
 9 resolution of the petitions appealing the Omnibus Order to the D.C. Circuit); *Eric*  
 10 *B. Fromer Chiropractic, Inc. v. N.Y. Life Ins. & Annuity Corp.*, No. CV 15-04767-  
 11 AB (JCX), 2015 WL 6579779 (C.D. Cal. Oct. 19, 2015) (staying putative TCPA  
 12 class action pending outcome of *Spokeo* and another case pending before the  
 13 Supreme Court); *Duchene v. Westlake Servs., LLC*, No. 2:13-CV-01577, 2015 WL  
 14 5947669 (W.D. Pa. Oct. 13, 2015) (same); *Boise v. ACE USA, Inc.*, No. 15-CIV-  
 15 21264, 2015 WL 4077433 (S.D. Fla. July 6, 2015) (same).

16        *Second*, by specifying that she does not oppose Uber’s stay motion, Plaintiff  
 17 has consented to a stay and has effectively admitted that she will not suffer  
 18 prejudice from the stay. *See, e.g.*, *Love v. The Mail on Sunday*, No.  
 19 CV057798ABCPJWX, 2006 WL 4046180, at \*9 (C.D. Cal. Aug. 15, 2006) (“The  
 20 Court deems Plaintiff’s non-opposition as consent to granting the motion.”).  
 21 Accordingly, there is no reason to deny Uber’s unopposed request for stay, where a  
 22 stay will conserve the Court’s and the parties’ resources.

23        *Third*, subsequent developments in both appeals have made clear that the  
 24 length of the requested stay will be modest. The initial brief in the consolidated  
 25 D.C. Circuit appeal has already been filed and the briefing will be complete in  
 26 February 2016, with a ruling expected soon thereafter. The *Spokeo* argument took  
 27

1 place before the United States Supreme Court on November 2, 2015, and a decision  
2 is expected in short order.

3 Uber therefore respectfully requests that the Court grant its unopposed  
4 motion to stay proceedings pending the D.C. Circuit's review of the Omnibus Order  
5 and the Supreme Court's review of *Spokeo v. Robins*. Given that Plaintiff does not  
6 oppose the motion, Uber submits herewith a revised proposed order for the Court's  
7 consideration.

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9 DATED: December 2, 2015

**PERKINS COIE LLP**

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11 By: /s/ James Snell

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13 James G. Snell  
14 Attorneys for Defendant  
15 Uber Technologies, Inc.

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